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10/078,384	02/21/2002	Atsushi Misawa	Q68474	5012

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EXAMINER

YE, LIN

ART UNIT PAPER NUMBER

2622

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/078,384

**Applicant(s)**

MISAWA ET AL.

**Examiner**

Lin Ye

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,9,10 and 13 is/are rejected.
- 7) ☒ Claim(s) 3,4,7,8,11,12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Inventors' Declaration filed on 2/1/06 under 37 CFR 1.131 is sufficient to overcome the Kahn reference (U.S. Patent Publication 2001/0050875). Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Niikawa et al. U.S. Patent 6,834,130.
2. This action is not made final.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Niikawa et al. U.S. Patent 6,834,130.

Referring to claim 1, the Niikawa reference discloses in Figures 1,4, 7(a), 6, 15 and 16, a digital camera (1, see col. 3, lines 35-48) capable of recording in a recording medium

(memory card 8) an image captured through an image pickup element (CCD 303, see Col. 5, lines 15-31), the digital camera comprising: a priority setting device (ranks setting by history setup button H) which sets priority of a captured image (ranks of image indicating importance of a specified image, see col. 15, lines 30-35); and a recording device which records information indicative of the priority set by the priority setting device in association with the captured image when the captured image is recorded (e.g., the ranks information as the priority set included in the history data is associated with the each captured image frame as shown in Figure 6, see col. 8, lines 65-67).

Referring to claim 5, the Niikawa reference discloses wherein the priority setting device (history setup button H) allows a user to select priority (e.g., the ranks of image based the number of history setup button presses by user, see Col. 15, lines 1-2 and lines 35-39).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niikawa et al. U.S. Patent 6,834,130 in view of Sugitani J.P. Patent Publication 2001-045426.

Referring to claim 2, the Niikawa reference discloses all subject matter as discussed with respect to claim 1, and Niikawa reference discloses the digital camera comprising a

recording device (memory card 8) for recoding a history data (See Col. 14, lines 36-63); the frame numbers are recorded in the 1<sup>st</sup> column of the history data table; and the ranks of image frames (as priority information for indicating importance of the image) are recorded in the 8<sup>th</sup> column of the history data table (See Col. 15, lines 30-40). However, the Niikawa reference does not explicitly show a frame number automatic correcting device which assigns frame numbers **in order of** priority by using the information indicative of the priority.

The Sugitani reference teaches in Figures 2-4, 7 and 8, a frame number automatic correcting device (image processing equipment for processing the images captured by camera) which assigns frame numbers (serves as an index, see Detailed Description [0045]) in order of priority (ranks, and 0,1,2, and 3 are given as a value of a rank) by using the information indicative of the priority (See Detailed Description [0055] – [0060]). The Sugitani reference is evidence that one of ordinary skill in the art at the time to see more advantages a frame number automatic correcting device which assigns frame numbers **in order of** priority by using the information indicative of the priority so that a user can quickly and accurately grasp contents of a image through the automatic addition of an index to a position at which the user can easily confirm the contents of the image, and to provide a storage medium (See Abstract). For that reason, it would have been obvious to one of ordinary skill in the art to modify the digital camera of Niikawa ('130) by providing a frame number automatic correcting device which assigns frame numbers **in order of** priority by using the information indicative of the priority as taught by Sugitani ('426).

Referring to claim 6, the Niikawa and Sugitani references disclose all subject matter as discussed with respected with same comments to claims 2 and 5.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niikawa et al. U.S. Patent 6,834,130 in view of Pfeiffer et al. U.S. Patent 5,146,592.

Referring to claim 9, the Niikawa reference discloses all subject matter as discussed with respect to claim 1, except that the Niikawa reference does not explicitly show the priority setting device determines whether the captured image is damaged or not and automatically sets lower priority (decreasing the priority) than a normal image to a probably-damaged image.

The Pfeiffer reference teaches in Figures 1 and 41, a camera system including the error detection circuit (105) analyzes the captured image to determine whether the captured image is damaged or not and automatically generate a detection of data other than image data (See Col. 71, lines 3-30). The Pfeiffer reference is evidence that one of ordinary skill in the art at the time to see more advantages the camera system be able to analyze the captured image to determine whether the captured image is damaged or not so that avoiding the damaged image are misinterpreted by user (See Col. 71, line 25-30). For that reason, it would have been obvious to one of ordinary skill in the art to modify the digital camera of Niikawa ('130) by providing the priority setting device to determine whether the captured image is damaged or not as taught by Pfeiffer ('592) and automatically sets lower priority (decreasing the priority) than a normal image to a probably-damaged image (because the damaged image as a undesired image for user, and the controller can use algorithms to degrade or indeed delete the damaged image, see page 11, [0148]).

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8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niikawa et al. U.S. Patent 6,834,130 in view of Pfeiffer et al. U.S. Patent 5,146,592 and Sugitani J.P. Patent Publication 2001-045426.

Referring to claim 10, the Niikawa, Pfeiffer and Sugitani references disclose all subject matter as discussed with respected with same comments to claims 2 and 9.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niikawa et al. U.S. Patent 6,834,130 in view of Pfeiffer et al. U.S. Patent 5,146,592 and Hicks U.S. Patent Publication 2002/0063901.

Referring to claim 13, the Niikawa reference discloses in Figures 1,4, 7(a), 6, 15 and 16, a digital camera (1, see col. 3, lines 35-48) capable of recording in a recording medium (memory card 8) an image captured through an image pickup element (CCD 303, see Col. 5, lines 15-31). However the Niikawa reference does not explicitly show the device determines whether the captured image is damaged or not.

The Pfeiffer reference teaches in Figures 1 and 41, a camera system including the error detection circuit (105) analyzes the captured image to determine whether the captured image is damaged or not and automatically generate a detection of data other than image data (See Col. 71, lines 3-30). The Pfeiffer reference is evidence that one of ordinary skill in the art at the time to see more advantages the camera system be able to analyze the captured image to determine whether the captured image is damaged or not so that avoiding the damaged image are misinterpreted by user (See Col. 71, line 25-30). For that reason, it would have been obvious to one of ordinary skill in the art to modify the digital camera of Niikawa ('130) by

providing the priority setting device to determine whether the captured image is damaged or not as taught by Pferiffer ('592).

However, the Niikawa and Pferiffer references do not explicitly show the device assigns identification information to a probably-damaged image.

The Hicks reference teaches in Figure 1, a image processing device assigns identification information to a probably-damaged image such as, blurred images, poor exposures images, or other fundamental defects images recorded in the storage media (59) (See page 5, lines 6-20). The Hicks reference is evidence that one of ordinary skill in the art at the time to see more advantages the camera system be able to assign identification information to a probably-damaged image so that those probably-damaged images can be marked for deletion from any further processing. For that reason, it would have been obvious to one of ordinary skill in the art to modify the digital camera of Niikawa ('130) by assigning identification information to a probably-damaged image as taught by Hicks ('901).

#### ***Allowable Subject Matter***

10. Claims 3-4, 7-8, 11-12 and 14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not teach or fairly suggest the digital camera further comprising a control device which, if the recording medium has an insufficient recording capacity when a new image is captured, erases an image recorded in the recording medium with priority lower than the new image and records the new image in the recording medium; or erase an image



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recorded in the recording medium with the identification information for indicating the image has been probably-damaged; and used in combination with all of the other limitations of the claims 1 and 13.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Ye whose telephone number is (571) 272-7372. The examiner can normally be reached on Mon-Fri 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lin Ye  
Primary Examiner  
Art Unit 2622

April 10, 2006